

**From:** Steketee, John [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8032AB0D79F64C209C7072B8838878BF-JSTEKETE]  
**Sent:** 3/29/2017 7:42:30 PM  
**To:** Crosetto, Thomas [crosetto.thomas@epa.gov]  
**Subject:** RE: Clarification--re my open records request

Looks good. I added a few words in [brackets] below. Thx.

**From:** Crosetto, Thomas  
**Sent:** Wednesday, March 29, 2017 2:38 PM  
**To:** Steketee, John <steketee.john@epa.gov>  
**Subject:** RE: Clarification--re my open records request

John – I got on this faster than I thought I would – below is my proposed response to Dr. Powell. You can skip to the second paragraph:

Hi Dr. Powell. You are correct that Sharon Travis erroneously asked for a large fee commitment from you, and then realized that you had received a fee waiver. I'm sorry about that. I can see how that added to your confusion. You are subject to the fee waiver, thus will not be billed for search, review or copying costs for this FOIA response.

Also, the reasons that Region 5 would deny some documents from you in response to this FOIA are threefold:

- A) Some records will be exempt under FOIA exemption 7(A), which allows agencies to withhold records compiled for law enforcement purposes, when production or release of these records could be reasonably expected to interfere with law enforcement proceedings.
- B) Some records will be exempt under FOIA exemption 5 as being subject to the “deliberative process privilege” because Region 5 is still [discussing and ] considering the best options for cleanup [of PCBs] at this site.
- C) Lastly, some documents are exempt under FOIA exemption 5 under the “attorney-client privilege,” since these records are communications between the Region 5 Office of Region Counsel and technical staff working on this matter.

**From:** Maria Powell (MEJO) [<mailto:mariapowell@mejo.us>]  
**Sent:** Friday, March 24, 2017 11:18 AM  
**To:** Crosetto, Thomas <[crosetto.thomas@epa.gov](mailto:crosetto.thomas@epa.gov)>  
**Subject:** Clarification--re my open records request

Hello Mr. Crosetto:

Thank you for your call yesterday, I appreciate it.

However, I'm still quite confused about this process, because I have received contradictory information--e.g.:

1. On Feb. 22, 2017 I submitted my open records request re Kipp, focused on PCB investigations.

2. On March 2, I received a fee waiver from the national FOIA officer, Larry Gottesman.
3. On March 16, your employee emailed that I would need to pay \$4000 "because of the voluminous amount of records," for "search and review time for 13 people" also noting that "this is an active enforcement case in which the majority of all records are enforcement sensitive or deliberative and would be withheld."  
(It is my understanding that per open records law, the requester cannot be charged for review of records.)
4. On March 20, your employee apologized for not knowing about the fee waiver, but stated "Because this is an open active enforcement case I will not be able to give you an estimate for when this enforcement case will be resolved"... "because of the number of people involved in searching and reviewing records..."
5. On March 23, you called me and said there is actually no "open active enforcement case" by EPA against Kipp, but that there might be one in the future so most records would be withheld because they are considered deliberative--so I wouldn't receive many records from my request anyway. Also, you said your staff indicated that most of the Kipp investigations were happening at the city and state levels so Region 5 didn't have very many records.

Based on the above, it seems that you are trying to convince me to withdraw (or partially withdraw) my open records request.

Perhaps I misunderstood what you said. Can you please clarify in writing?

Thanks!  
Maria Powell